



Commonwealth of Virginia

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**STATE WATER CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
WASTE MANAGEMENT OF VIRGINIA, INC.
FOR
THE CHARLES CITY COUNTY LANDFILL
VPDES PERMIT VAR100808
VWP SITE NUMBER NP19-000617**

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code §§ 62.1-44.15, 62.1-44.15:25, and 62.1-44.15:48, between the State Water Control Board and Waste Management of Virginia, Inc., regarding the Charles City County Landfill, for the purpose of resolving certain violations of State Water Control Law and the applicable permit and regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "2014 Permit" means the General VPDES Permit for Discharges of Stormwater from Construction Activities, No. VAR10, promulgated at 9 VAC 25-880-70, which was issued under the State Water Control Law, the VSMP Regulations, and the General Permit Regulation on July 1, 2014 and which expired on June 30, 2019.
2. "2019 Permit" means the General VPDES Permit for Discharges of Stormwater from Construction Activities, No. VAR10, promulgated at 9 VAC 25-880-70, which was

issued under the State Water Control Law, the VSMP Regulations, and the General Permit Regulation on July 1, 2019 and which expires on June 30, 2024.

3. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and 62.1-44.7.
4. "Construction activity" means any clearing, grading or excavation resulting in land disturbance of equal to or greater than one acre, or disturbance of less than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one acre.
5. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
6. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
7. "Discharge" means, when used without qualification, a discharge of a pollutant, or any addition of a pollutant or combination of pollutants, to state waters or waters of the contiguous zone or ocean other than a discharge from a vessel or other floating craft when being used as a means of transportation.
8. "Dredging" means a form of excavation in which material is removed or relocated from beneath surface waters.
9. "Excavate" or "excavation" means ditching, dredging, or mechanized removal of earth, soil, or rock.
10. "Facility" or "Site" means the Charles City County Landfill located at 8000 Chambers Road in Charles City County, Virginia.
11. "Fill" means replacing portions of surface water with upland, or changing the bottom elevation of surface water for any purpose, by placement of any pollutant or material including but not limited to rock, sand, earth, and man-made materials and debris. 9 VAC 25-210-10.
12. "Fill Material" means any pollutant which replaces portions of surface water with dry land or which changes the bottom elevation of a surface water for any purpose. 9 VAC 25-210-10.
13. "Land disturbance" or "land-disturbing activity" means a man-made change to the land surface that potentially changes its runoff characteristics including clearing, grading, or excavation, except that the term shall not include those exemptions specified in Va. Code § 62.1-44.15:34.

14. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.
15. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the State Water Control Law.
16. "Pollutant" means any substance, radioactive material, or heat which causes or contributes to, or may cause or contribute to pollution. 9 VAC 25-210-10.
17. "Pollution" means such alteration of the physical, chemical or biological properties of any state waters as will or is likely to create a nuisance or render such waters: (i) harmful or detrimental or injurious to the public health, safety or welfare, or to the health of animals, fish or aquatic life; (ii) unsuitable with reasonable treatment for use as present or possible future sources of public water supply; or (iii) unsuitable for recreational, commercial, industrial, agricultural, or other reasonable uses; provided that (a) an alteration of the physical, chemical, or biological property of state waters, or a discharge or deposit of sewage, industrial wastes or other wastes to state waters by any owner which by itself is not sufficient to cause pollution, but which, in combination with such alteration of or discharge or deposit to state waters by other owners is sufficient to cause pollution; (b) the discharge of untreated sewage by any owner into state waters; and (c) contributing to the contravention of standards of water quality duly established by the board, are "pollution." Va. Code § 62.1-44.3; 9 VAC 25-210-10.
18. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
19. "Regulations" means the VWP Permit Program Regulations, 9 VAC 25-210 *et seq.*
20. "Restoration" means the reestablishment of a wetland or other aquatic resource in an area where it previously existed. Wetland restoration means the reestablishment of wetland hydrology and vegetation in an area where a wetland previously existed. Stream restoration means the process of converting an unstable, altered or degraded stream corridor, including adjacent areas and floodplains, to its natural conditions.
21. "Significant alteration or degradation of existing wetland acreage or function" means human-induced activities that cause either a diminution of the areal extent of the existing wetland or cause a change in wetland community type resulting in the loss or more than minimal degradation of its existing ecological functions. 9 VAC 25-210-10.
22. "State Water Control Law" means Chapter 3.1 (§ 62.1-44.2 *et seq.*) of Title 62.1 of the Va. Code. Article 2.2 (Va. Code §§ 62.1-44.15:20 through 62.1-44.15:23) of the State Water Control Law addresses the Virginia Water Resources and Wetlands Protection Program.

23. "State waters" means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands. Va. Code § 62.1-44.3 and 9 VAC 25-210-10.
24. "Stormwater" means precipitation that is discharged across the land surface or through conveyances to one or more waterways and that may include stormwater runoff, snow melt runoff, and surface runoff and drainage. Va. Code § 62.1-44.15:24.
25. "Stormwater management plan" means a document or series of documents containing material describing methods for complying with the requirements of a VSMP or the VSMP Regulations. 9 VAC 25-870-10.
26. "SWPPP" means Stormwater Pollution Prevention Plan, which is a document that is prepared in accordance with good engineering practices and that identifies potential sources of pollutants that may reasonably be expected to affect the quality of stormwater discharges. A SWPPP required under a VSMP for construction activities shall identify and require the implementation of control measures, and shall include, but not be limited to the inclusion of, or the incorporation by reference of an approved erosion and sediment control plan, an approved stormwater management plan, and a pollution prevention plan. 9 VAC 25-870-10.
27. "Surface water" means all state waters that are not ground waters as defined in Va. Code § 62.1-255.
28. "SWPPP" means stormwater pollution prevention plan.
29. "USACE" means the United States Army Corps of Engineers.
30. "Va. Code" means the Code of Virginia (1950), as amended.
31. "VAC" means the Virginia Administrative Code.
32. "VPDES" means Virginia Pollutant Discharge Elimination System.
33. "VSMP" means the Virginia Stormwater Management Program, which is a program approved by the Soil and Water Conservation Board after September 13, 2011, and until June 30, 2013, or the State Water Control Board on and after June 30, 2013, that has been established by a VSMP authority to manage the quality and quantity of runoff resulting from land-disturbing activities and shall include such items as local ordinances, rules, permit requirements, annual standards and specifications, policies and guidelines, technical materials, and requirements for plan review, inspection, enforcement, where authorized in this article, and evaluation consistent with the requirements of this article and associated regulations. Va. Code § 62.1-44.15:24.

34. "VSMP authority" means an authority approved by the Board after September 13, 2011, to operate a VSMP or, until such approval is given, the Department. An authority may include a locality; state entity, including the Department; federal entity; or for linear projects subject annual standards and specifications in accordance with subsection B of § 62.1-44.15-31, electric, natural gas, and telephone utility companies, interstate and intrastate natural gas pipeline companies, railroad companies, or authorities created pursuant to § 15.2-5102. Va. Code § 62.1-44.15:24.
35. "VSMP Regulations" means the Virginia Stormwater Management Program (VSMP) Regulations, 9 VAC 25-870-10 et seq.
36. "VWP" means Virginia Water Protection.
37. "VWP Permit" or "Virginia Water Protection Permit" means an individual or general permit issued under Va. Code § 62.1-44.15:20 that authorizes activities otherwise unlawful under Va. Code § 62.1-44.5 or otherwise serves as the Commonwealth's certification under § 401 of the federal Clean Water Act (33 United States Code ("USC") § 1344.
38. "Waste Management" means Waste Management of Virginia, Inc., a corporation authorized to do business in Virginia and its members, affiliates, partners, and subsidiaries. Waste Management is a "person" within the meaning of Va. Code § 62.1-44.3
39. "Wetlands" means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. 9 VAC 25-210-10.

SECTION C: Findings of Fact and Conclusions of Law

1. Waste Management owns and operates the Facility in Charles City County, Virginia, from which stormwater associated with construction activity is discharged. Waste Management has placed a deed restriction on the common areas within the Property. Charles City County is the VSMP authority.
2. On August 1, 2014, Waste Management obtained coverage under the 2014 General VPDES Permit for Discharges of Stormwater from Construction Activities (VAR10), and was assigned registration number VAR100808. On January 7, 2020, Waste Management was reissued permit coverage under the 2019 Permit.

3. The 2014 Permit and 2019 Permit allowed Waste Management to discharge stormwater associated with construction activities from the Site to Bradley Run, in strict compliance with the terms and conditions in the permits.
4. Bradley Run is a surface water located wholly within the Commonwealth and is a "state water" under the State Water Control Law.
5. On February 6, 2019, the Department conducted a construction stormwater inspection of the Site and observed the following:
 - a) Qualified Personnel were not identified in the SWPPP.
 - b) A stormwater management plan was not observed in the SWPPP or the site plan.
 - c) Low lying areas did not have adequate perimeter controls installed; sediment was eroding off Site.
 - d) Sediment basin 2 was eroding heavily, silt fencing had not been maintained in multiple areas, diversions had not been maintained.
 - e) Inspection reports were not being conducted at the required frequency, and inspection reports repeatedly identified the same problem without corrective action taking place.

On February 7, 2019 the Department sent the inspection report to Waste Management requesting corrective action by February 14, 2019.

6. 9 VAC 25-870-54(A) states in part: "A stormwater pollution prevention plan shall include, but not be limited to, an approved erosion and sediment control plan, an approved stormwater management plan, a pollution prevention plan for regulated land-disturbing activities..."
7. 2014 Permit Part II(A)(6) states: "Stormwater pollution preventions plan contents. The SWPPP shall include the following items... Qualified personnel. The name, phone number, and qualifications of the qualified personnel conducting inspections required by this general permit."
8. 2014 Permit Part I(B)(4)(d)(1) states in part: "The applicable SWPPP inspection requirements specified in Part II F 2 shall be amended as follows: (1) Inspections shall be conducted at a frequency of (i) at least once every four business days or (ii) at least once every five business days and no later than 48 hours following a measurable storm event. In the event that a measurable storm event occurs when there are more than 48 hours between business days, the inspection shall be conducted on the next business day..."
9. 2014 Permit Part II (G)(1), states: "The operator shall implement the corrective action(s) identified as a result of an inspection as soon as practicable but no later than seven days after discovery or a longer period as approved by the VSMP authority. If approval of a corrective action by a regulatory authority (e.g., VSMP authority, VESCP authority, or the department) is necessary, additional control measures shall be implemented to minimize pollutants in stormwater discharges until such approvals can be obtained."

10. 9 VAC 25-840-60(A) states in part: "All erosion and sediment control structures and systems shall be maintained, inspected and repaired as needed to insure continued performance of their intended function..."
11. 2014 Permit Part II (E) (1) states in part: "All control measures must be properly maintained in effective operating condition in accordance with good engineering practices and, where applicable, manufacturer specifications."
12. 9 VAC 25-840-40(4) states: "Sediment basins and traps, perimeter dikes, sediment barriers and other measures intended to trap sediment shall be constructed as a first step in any land-disturbing activity and shall be made functional before upslope land disturbance takes place."
13. 9 VAC 25-870-54(B) states in part: "An erosion and sediment control plan consistent with the requirements of the Virginia Erosion and Sediment Control Law and regulations must be designed and implemented during construction activities."
14. On February 22, 2019, and again on March 6, 2019, the Department VWP staff conducted inspections of the Site and observed significant alteration and degradation of existing wetland acreage and function due to a lack of properly installed, and failures to, erosion and sediment controls. Within the Charles City Landfill Site, approximately 0.87 acre of palustrine forested wetland, 4.6 acres of palustrine scrub shrub wetland, and 4,678 linear feet of stream channel, including an unnamed tributary to Bradley Run, have been impacted from the lack of proper erosion and sediment controls with approximately 1-16 inches of sediment observed in varying locations throughout the Site.
15. Va. Code § 62.1-44.15:20 and 9 VAC 25-210-50(A) of the VWP Permit Regulations state that except in compliance with a permit no person shall dredge, fill or discharge any pollutant into or adjacent to surface waters, excavate in wetlands or on or after October 1, 2001, conduct the following activities in a wetland: filling or dumping.
16. On April 29, 2019, the Department conducted a construction stormwater inspection of the Site and observed the following:
 - a) Qualified Personnel had not been identified in the SWPPP.
 - b) The SWPPP did not contain any amendments, modifications, or corrective actions that had occurred on site.
 - c) The contractor responsible for the implementation and maintenance of the erosion and sediment controls had not been identified.
 - d) Sediment discharges noted on previous construction stormwater inspection report(s) and VWP inspections had not been recorded in the SWPPP.
 - e) Inspections were not being signed by the operator or a delegated authority; no delegated authority had been identified. Records state that beginning April 5, 2019, there were no erosion and sediment control deficiencies on site that required corrective actions; however, this conflicts with the inspection conducted April 29, 2019.

- f) Large areas had been cleared but had not undergone grading to direct flow to the sediment basins. The areas in question either had concentrated flow directed to silt fence or had no perimeter controls at all. Grading work after clearing to direct flows to the sediment basins was not completed.
- g) Denuded areas had not been stabilized in accordance with 9 VAC 25-840-40(1), (2), (3), and (5).
- h) Denuded areas do not have perimeter controls installed. Diversions and conveyance channels were not constructed per the approved ESC plan.
- i) Sediment basins were not installed in accordance with the approved Erosion and Sediment Control plan.
- j) The sediment basins were not functioning as intended. Sediment deposition downstream of the sediment basin outfall was observed. Silt fencing was being undermined at the low areas on site.

On April 30, 2019, the Department sent the inspection report to Waste Management requesting corrective action by May 13, 2019.

- 17. 2014 Permit Part II(F)(4) states in part: "The inspection report and any actions taken in accordance with Part II must be retained by the operator as part of the SWPPP for at least three years..."
- 18. 2014 Permit Part II(A)(6) states: "Stormwater pollution preventions plan contents. The SWPPP shall include the following items... Qualified personnel. The name, phone number, and qualifications of the qualified personnel conducting inspections required by this general permit."
- 19. 2014 Permit Part II(B)(1) states: "The operator shall amend the SWPPP whenever there is a change in the design, construction, operation, or maintenance that has a significant effect on the discharge of pollutants to surface waters and that has not been previously addressed in the SWPPP."
- 20. 2014 Permit Part II(B)(3) state: "The SWPPP must clearly identify the contractor(s) that will implement and maintain each control measure identified in the SWPPP. The SWPPP shall be amended to identify any new contractor that will implement and maintain a control measure."
- 21. 2014 Permit Part II(B)(4)(a) states: "The operator shall update the SWPPP no later than seven days following any modification to its implementation. All modifications or updates to the SWPPP shall be noted and shall include the following items:
 - a. A record of dates when:
 - (1) Major grading activities occur;
 - (2) Construction activities temporarily or permanently cease on a portion of the site; and
 - (3) Stabilization measures are initiated;

- b. Documentation of replaced or modified controls where periodic inspections or other information have indicated that the controls have been used inappropriately or incorrectly and where modified as soon as possible;
- c. Areas that have reached final stabilization and where no further SWPPP or inspection requirements apply;
- d. All properties that are no longer under the legal control of the operator and the dates on which the operator no longer had legal control over each property;
- e. The date of any prohibited discharges, the discharge volume released, and what actions were taken to minimize the impact of the release;
- f. Measures taken to prevent the reoccurrence of any prohibited discharge; and
- g. Measures taken to address any evidence identified as a result of an inspection required under Part II F..."

- 22. 2014 Permit Part II(F)(3), states in part: "As part of the inspection, the qualified personnel shall: (1) Record the date and time of the inspection...."
- 23. 2014 Permit Part III(K)(2) states in part: "Reports, etc. All reports required by this general permit, including SWPPPs, and other information requested by the board or the department shall be signed by a person described in Part III K 1 or by a duly authorized representative of that person..."
- 24. 9 VAC 25-870-54(G) states in part: "The SWPPP shall be amended whenever there is a change in design, construction, operation, or maintenance that has a significant effect on the discharge of pollutants to state waters and that has not been previously addressed in the SWPPP. ..."
- 25. 9 VAC 25-870-54(B) states in part: "An erosion and sediment control plan consistent with the requirements of the Virginia Erosion and Sediment Control Law and regulations must be designed and implemented during construction activities."
- 26. 9 VAC 25-840-60(A) states in part: "All erosion and sediment control structures and systems shall be maintained, inspected and repaired as needed to insure continued performance of their intended function..."
- 27. 2014 Permit Part II (E) (1) states in part: "All control measures must be properly maintained in effective operating condition in accordance with good engineering practices and, where applicable, manufacturer specifications."
- 28. 9 VAC 25-840-40(1) states "Permanent or temporary soil stabilization shall be applied to denuded areas within seven days after final grade is reached on any portion of the site. Temporary soil stabilization shall be applied within seven days to denuded areas that may not be at final grade but will remain dormant for longer than 14 days. Permanent stabilization shall be applied to areas that are to be left dormant for more than one year."

29. 9 VAC 25-840-40(2) states "During construction of the project, soil stock piles and borrow areas shall be stabilized or protected with sediment trapping measures. The applicant is responsible for the temporary protection and permanent stabilization of all soil stockpiles on site as well as borrow areas and soil intentionally transported from the project site."
30. 9 VAC 25-840-40(3) states "A permanent vegetative cover shall be established on denuded areas not otherwise permanently stabilized. Permanent vegetation shall not be considered established until a ground cover is achieved that is uniform, mature enough to survive and will inhibit erosion."
31. 9 VAC 25-840-40(5) states "Stabilization measures shall be applied to earthen structures such as dams, dikes and diversions immediately after installation."
32. 9 VAC 25-840-40(19) states in part: "Properties and waterways downstream from development sites shall be protected from sediment deposition, erosion and damage..."
(a) Concentrated stormwater runoff leaving a development site shall be discharged directly into an adequate natural or man-made receiving channel, pipe or storm sewer system. For those sites where runoff is discharged into a pipe or pipe system, downstream stability analyses at the outfall of the pipe or pipe system shall be performed.
33. On May 15, 2019, Waste Management responded to the Department's April 29, 2019, inspection report, detailing corrective action taken for each of the discovered issues.
34. On July 17, 2019, the Department conducted a construction stormwater inspection of the Site and observed the following:
 - a) Initial erosion and sediment control measures did not appear to be installed/stabilized in accordance with the approved Erosion and Sediment Control plans. Land disturbance was occurring up-slope from sediment basin(s) and diversion(s) had not been completed and stabilized.
 - b) Diversions were under construction prior to stabilization. Sediment Basin 7, previously known as SB-2, had not been installed per the approved Erosion and Sediment Control plans.
 - c) The outfall from SB-6 showed signs of new sediment deposition.
 - d) SB-6 showed signs of eroding slopes along the corner of the embankment between the SB & fore-bay. SB-7 had not yet been completed. Diversions had not yet been completed/stabilized.On August 2, 2019, the Department sent the inspection report to Waste Management and Charles City County requesting corrective action by August 12, 2019.
35. 9 VAC 25-840-60(A) states in part: "All erosion and sediment control structures and systems shall be maintained, inspected and repaired as needed to insure continued performance of their intended function..."

36. 2014 Permit Part II (E) (1) states in part: "All control measures must be properly maintained in effective operating condition in accordance with good engineering practices and, where applicable, manufacturer specifications."
37. 9 VAC 25-870-54(B) states in part: "An erosion and sediment control plan consistent with the requirements of the Virginia Erosion and Sediment Control Law and regulations must be designed and implemented during construction activities."
38. 9 VAC 25-840-40(4) states: "Sediment basins and traps, perimeter dikes, sediment barriers and other measures intended to trap sediment shall be constructed as a first step in any land-disturbing activity and shall be made functional before upslope land disturbance takes place."
39. 9 VAC 25-840-40(5) states: "Stabilization measures shall be applied to earthen structures such as dams, dikes and diversions immediately after installation."
40. 9 VAC 25-840-40(6) states in part: "Sediment traps and sediment basins shall be designed and constructed based upon the total drainage area to be served by the trap or basin..."
41. On August 16, 2019, Waste Management responded to the Department's July 17, 2019, inspection report, listing corrective action for the deficiencies discovered.
42. On August 21, 2019, the Department conducted a construction general permit inspection of the Site and observed the following:
 - a) SB-6 and associated sediment forebay had areas along the embankment that lacked stabilization and the diversion to SB-6 were not stabilized.
 - b) SB-6 had areas of erosion along the embankments, SB-7 had not been constructed, and diversions on site were not stabilized.
43. 9 VAC 25-870-54(B) states in part: "An erosion and sediment control plan consistent with the requirements of the Virginia Erosion and Sediment Control Law and regulations must be designed and implemented during construction activities."
44. 9 VAC 25-840-40(5) states: "Stabilization measures shall be applied to earthen structures such as dams, dikes and diversions immediately after installation."
45. Permit Part II(A)(2)(c)(8) states: "A properly implemented erosion and sediment control plan... ensures that stabilization of disturbed areas will be initiated immediately whenever any clearing, grading, excavating, or other land-disturbing activities have been permanently ceased on any portion of the site, or temporarily ceased on any portion of the site and will not resume for a period exceeding 14 days..."
46. 9 VAC 25-840-40(1) states: "Permanent or temporary soil stabilization shall be applied to denuded areas within seven days after final grade is reached on any portion of the site."

Temporary soil stabilization shall be applied within seven days to denuded areas that may not be at final grade but will remain dormant for longer than 14 days. Permanent stabilization shall be applied to areas that are to be left dormant for more than one year.”

47. On September 4, 2019, the Department issued NOV Nos. 1903-00976 & 2019-07-PRO-201 to Waste Management for wetland impacts and 2014 Permit violations that were observed by Department staff during the February 6, 2019, February 22, 2019, March 6, 2019, April 29, 2019, inspections of the Site.
48. On October 7, 2019, the Department met with Waste Management to discuss the NOV and the issuance of this Order.
49. Based on the results of the Site inspections, review of the 2014 Permit file, the letters sent by Waste Management, and the October 7, 2019 meeting, the Board concludes that Waste Management has violated Va. Code § 62.1-44.15:20, 9 VAC 25-210-50(A), 9 VAC 25-870-54(A), 2014 Permit Parts I(B)(4)(d)(1), II(A)(2)(c)(8), II (G)(1), II(F)(1) II(F)(3), II(F)(4), II(A)(6), II(A)(7), III(K)(2), II(B)(3), II(B)(1), II(B)(4)(a), 9 VAC 25-870-54(G), 9 VAC 25-840-40(4), 9 VAC 25-840-40(5), 9 VAC 25-840-60(A), 9 VAC 25-840-40(19), 9 VAC 25-840-40(6), 9 VAC 25-870-54(B), 9 VAC 25-840-40(1), and 9 VAC 25-840-40(3) as described above.
50. On February 27, 2020, DEQ staff inspected the Landfill and observed that Waste Management had address all of the environmental issues at the Facility.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 62.1-44.15, the Board orders Waste Management and Waste Management agrees to:

1. Perform the actions described in Appendix A of this Order; and
2. Pay a civil charge of \$95,000 in settlement of the violations cited in this Order, to be paid as follows:
 - a. Waste Management shall pay \$9,500 of the civil charge within 30 days of the effective date of this Order Payment shall be made by check, certified check, money order, or cashier's check payable to the "Treasurer of Virginia," delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

Waste Management shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit of \$4,750 into the Virginia Environmental Emergency Response Fund (VEERF) and \$4,750 into the Virginia Stormwater Management Fund. If the Department has to refer collection of moneys due under this Order to the Department of Law, Waste Management shall be liable for attorneys' fees of 30% of the amount outstanding.

- b. Waste Management shall satisfy \$85,500 of the civil charge by satisfactorily completing the Supplemental Environmental Project (SEP) described in Appendix A of this Order.
- c. The net project costs of the SEP to Waste Management shall not be less than the amount set forth in Paragraph D.2.b. If it is, Waste Management shall pay the remaining amount in accordance with Paragraph D.2.a of this Order, unless otherwise agreed to by the Department. "Net project cost" means the net present after-tax cost of the SEP, including tax savings, grants, and first-year cost reductions and other efficiencies realized by virtue of project implementation. If the proposed SEP is for a project for which the party will receive an identifiable tax savings (e.g., tax credits for pollution control or recycling equipment), grants, or first-year operation cost reductions or other efficiencies, the net project cost shall be reduced by those amounts. The costs of those portions of SEPs that are funded by state or federal low-interest loans, contracts, or grants shall be deducted.
- d. By signing this Order Waste Management certifies that it has not commenced performance of the SEP.
- e. Waste Management acknowledges that it is solely responsible for completing the SEP project. Any transfer of funds, tasks, or otherwise by Waste Management to a third party, shall not relieve Waste Management of its responsibility to complete the SEP as described in this Order.
- f. If the SEP involves performing an environmental assessment or environmental audit, Waste Management shall submit any resulting report, shall report any violations discovered as a result of the environmental assessment or environmental audit to DEQ immediately and shall correct those violations, including any required remedial actions.
- g. In the event it publicizes the SEP or the SEP results, Waste Management shall state in a prominent manner that the project is part of a settlement of an enforcement action.
- h. The Department has the sole discretion to:
 - i. Authorize any alternate, equivalent SEP proposed by the Facility; and

- ii. Determine whether the SEP, or alternate SEP, has been completed in a satisfactory manner.
- i. Should the Department determine that Waste Management has not completed the SEP, or alternate SEP, in a satisfactory manner, the Department shall so notify Waste Management in writing. Within 30 days of being notified, Waste Management shall pay the amount specified in Paragraph D.2.b, above, as provided in Paragraph D.2.a, above.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of Waste Management for good cause shown by Waste Management, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, Waste Management admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Waste Management consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Waste Management declares it has received fair and due process under the Administrative Process Act and the State Water Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by Waste Management to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.

7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Waste Management shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. Waste Management shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Waste Management shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Waste Management. Nevertheless, Waste Management agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
 - a. The Director or his designee terminates the Order after Waste Management has completed all of the requirements of the Order;
 - b. Waste Management petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or

- c. The Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Waste Management.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Waste Management from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by Waste Management and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of Waste Management certifies that he or she is a responsible official or officer authorized to enter into the terms and conditions of this Order and to execute and legally bind Waste Management to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official or officer of Waste Management
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
15. By its signature below, Waste Management voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 22nd day of June, 2022.


Jerome A. Brooks Pursuant to authority
Department of Environmental Quality delegated on 03/24/2022
Piedmont Regional Director

------(Remainder of Page Intentionally Blank)-----

Waste Management voluntarily agrees to the issuance of this Order.

Date: 3/29/2022 By: [Signature],
Harold S. Thacker Director of Disposal
Operations

Commonwealth of Virginia

City/County of Gloucester

The foregoing document was signed and acknowledged before me this 29th day of

March, 2022, by Harold S. Thacker who is Director of Disposal Operations of Waste
Management of Virginia, Inc., on behalf of the corporation.

[Signature]

Notary Public

7922803

Registration No.

My commission expires: August 31, 2025

Notary seal:



APPENDIX A SCHEDULE OF COMPLIANCE

Waste Management shall perform the SEP identified below in the manner specified in this Appendix.

1. The SEP to be performed by Waste Management is to provide funding directly to the VCU Rice Rivers Center (RRC), a regional leader in the science and practice of wetland ecology, that will be used for the following tasks:
 - a. Delineate and characterize tidal wetlands owned by the Chickahominy Tribe using geospatial technologies for critical attributes such as elevation, plant community composition and productivity, and critical habitats for culturally significant living resources including Atlantic Sturgeons and Bald Eagles;
 - b. Design and deploy installations (3 surface Surface Elevation Tables (SETs) installations, vertical ground control points, permanent vegetation plots) on Tribal property to support long-term monitoring of marsh elevation and vegetation change, water quality, invasive species, and use those data to develop threat mitigation and management tactics to support tidal wetland protection;
 - c. Work with Tribal leadership to develop and implement STEM and technical training opportunities for tribal citizens so that long-term monitoring and mitigation efforts will be sustainable and under tribal control.
2. The SEP funding shall be provided to RRC within 30 days from DEQ's execution and delivery of the Order. The SEP shall be completed by **August 1, 2024**.
3. Waste Management shall submit progress reports on the SEP on a quarterly basis, due the 10th day day following the end of each calendar quarter.
4. Waste Management shall submit a written final report on the SEP, verifying that the SEP has been completed in accordance with the terms of this Order, and certified either by a Certified Public Accountant or by a responsible corporate officer or owner. Waste Management shall submit the final report and certification to the Department within 30 days from the completion of the SEP.
5. If the SEP has not or cannot be completed as described in the Order, Waste Management shall notify DEQ in writing no later 15 days from discovery. Such notification shall include:
 - a. an alternate SEP proposal, or
 - b. payment of the amount specified in Paragraph D.2 as described in Paragraph D.1.

6. Waste Management hereby consents to reasonable access by DEQ or its staff to property or documents under the party's control, for verifying progress or completion of the SEP.
7. Waste Management shall submit to the Department written verification of the final overall and net project cost of the SEP in the form of a certified statement itemizing costs, invoices and proof of payment, or similar documentation within 30 days of the project completion date. For the purposes of this submittal, net project costs can be either the actual, final net project costs or the projected net project costs if such projected net project costs statement is accompanied by a CPA certification or certification from Waste Management Chief Financial Officer concerning the projected tax savings, grants or first-year operation cost reductions or other efficiencies.
8. Unless otherwise specified in this Order, Waste Management shall submit all requirements of Appendix A of this Order to:

Frank Lupini,
VA DEQ Piedmont Regional Office,
4949A Cox Road, Glen Allen, Virginia 23060
Frank.Lupini@deq.virginia.gov